

# LATHROP GAGE

Denise L. Mayfield  
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Fax: (720) 931-3001

November 15, 2002

## VIA U.S. FIRST CLASS MAIL

Dr. John Dodds  
Dodds & Associates  
1707 N St.  
Washington, DC 20036

RE: U.S. Serial No. 09/773,303  
Title: FIELD BEAN CULTIVAR NAMED ENOLA  
Our Ref: 396168

Dear Dr. Dodds:

Enclosed are true and correct copies of the papers filed with the USPTO regarding application 09/773,303, Control 90/005,892 filed on November 15, 2002.

I hereby certify pursuant to provisions under 37 CFR 1.248(a)(4) these documents are being transmitted to you by U.S. First Class Mail. Please sign below to acknowledge receipt of these items and transmit the signed document to us.

Sincerely,  
  
Denise L. Mayfield

Signed:

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Dodds

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Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Serial Control Number	09/773,303 - 90/005,892
		Filing Dates	01/31/2001 - 12/20/2000
		First Named Inventor	Larry M. Proctor
		Group Art Unit	1638
		Examiner Name	Amy Nelson
Total Number of Pages in This Submission		Attorney Docket Number	396168

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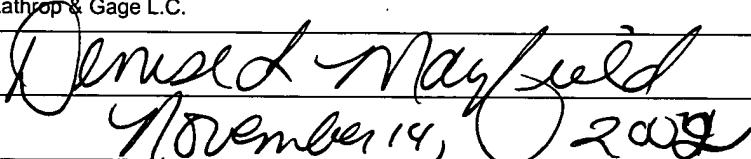
ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers <i>(for an Application)</i> <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group <i>(Appeal Notice, Brief, Reply Brief)</i> <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i> <b>Cited References</b> <b>Certificate of Mailing</b> <b>Return Postcard</b>
Remarks		

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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Denise L. Mayfield, Reg. No. 33,732 Lathrop & Gage L.C.
Signature	
Date	November 19, 2002

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# FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

 Applicant claims small entity status.

TOTAL AMOUNT OF PAYMENT (\$ 180)

Complete if Known	
Application Number	09/773,303 - 90/005,892
Filing Date	1/31/2000 - 12/20/2000
First Named Inventor	Larry Proctor
Examiner Name	Amy J. Nelson
Group / Art Unit	1638
Attorney Docket No.	396168

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METHOD OF PAYMENT (check one)				FEE CALCULATION (continued)																																																																																																																																																														
<input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money <input type="checkbox"/> Other <input type="checkbox"/> Deposit Account				<b>3. ADDITIONAL FEES</b> <table border="1"> <thead> <tr> <th>Large Entity Fee Code (\$)</th> <th>Small Entity Fee Code (\$)</th> <th colspan="2">Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td></tr> <tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td></tr> <tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for reexamination</td></tr> <tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td></tr> <tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td></tr> <tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td></tr> <tr><td>1252</td><td>400</td><td>2252</td><td>200</td><td>Extension for reply within second month</td></tr> <tr><td>1253</td><td>920</td><td>2253</td><td>460</td><td>Extension for reply within third month</td></tr> <tr><td>1254</td><td>1,440</td><td>2254</td><td>720</td><td>Extension for reply within fourth month</td></tr> <tr><td>1255</td><td>1,960</td><td>2255</td><td>980</td><td>Extension for reply within fifth month</td></tr> <tr><td>1401</td><td>320</td><td>2401</td><td>160</td><td>Notice of Appeal</td></tr> <tr><td>1402</td><td>320</td><td>2402</td><td>160</td><td>Filing a brief in support of an appeal</td></tr> <tr><td>1403</td><td>280</td><td>2403</td><td>140</td><td>Request for oral hearing</td></tr> <tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td></tr> <tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - 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\*\*or number previously paid, if greater; For Reissues, see above

SUBMITTED BY						Complete (if applicable)
Name (Print/Type)	Denise L. Mayfield	Registration No. Attorney/Agent)	33,732	Telephone	(720) 931-3000	
Signature	<i>Denise L. Mayfield</i>			Date	11/19/2002	

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**IN THE UNITED STATES PATENT OFFICE**

Applicant(s): Proctor, Larry

Examiner: Nelson, Amy J.

Reexamination of U.S. Patent No.: 5,894,079

Reissue Application No.: 09/773,303

Control No.: 90/005,892

Filed: 01/31/2001

Filed: 12/20/2000

For: **FIELD BEAN CULTIVAR NAMED ENOLA**

Assistant Commissioner for Patents  
Washington, D.C. 20231

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**INFORMATION DISCLOSURE STATEMENT**  
**FILED UNDER 37 C.F.R. § 1.97(c)**

The present Information Disclosure Statement is submitted on behalf of Pod-Ners, Assignee of Patent No. 5,894,079, titled, "FIELD BEAN CULTIVAR NAMED ENOLA". It is respectfully requested that these documents be made of record and entered as art considered in the Reissue Application Serial No. 09/773, 303, Control No. 90/005,892.

Copies of documents that were provided during an infringement action under the Pod-Ners Plant Variety Protection Act Certificate are included herewith. This Action was pending in the United States District Court for the District of Colorado (Civil Action No. 01-WY-2310 AJ, documents dated October 2-October 9, 2002).

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**Certification Under 37 CFR §1.97(c)**

11/18/2002 RHARMON 0000000108733202 presently filed Information Disclosure Statement is to be considered and entered into  
01 FC:1806 100.00 \$0 the Official Record of the Reexamination Application of U.S. Serial No. 09/773,303 of the United  
States Patent Office under the provisions provided under 37 CFR §1.97(c). I hereby certify  
pursuant to the provisions of 37 CFR §1.97(c) that the present Information Disclosure Statement,  
is being filed before the mailing date of any final Office Action under §1.113, before the issuance  
of a notice of allowance under §1.311, and before the issuance of an action that otherwise closes  
prosecution in the application, and that the filing of the present Information Disclosure Statement  
is accompanied by the fee set forth in CFR §1.17(p), \$180.00 (37 CFR §1.97(c)(2)).

A copy of reference #28-Exportacion DeVariedad De Frijol Tio Azufrado A La USA, 1990) is included with the papers of the present Information Disclosure Statement. This document was produced during the infringement litigation of the Pod-Ners Plant Variety

document was produced during the infringement litigation of the Pod-Ners Plant Variety Protection Act Certificate. The document purports the exportation of beans from seven (7) different exporters in Mexico to the United States. The dates indicated at the middle column of the document, purport to identify exportation dates of March, 1990, February, 1992, May 1997, February 1998, March, 1999, December 1996 and December 1999. We are not aware of the source of this document.

**Rule 1.248 - Service of Papers; Manner of Service; Proof of Service in Cases Other Than Interferences**

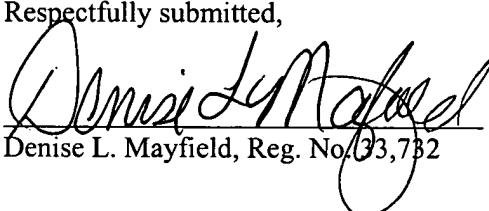
I, Denise L. Mayfield certify that a true and correct copy of the presently filed papers have been served to Dr. John Dodds, Attorney of Record for CIAT by transmission by first class mail on November 15, 2002 (37 CFR §1.248(a)(4)). Said proof of service is affixed to the papers filed herewith (37 CFR §1.248(b)).

I enclose the above documents for your review and consideration. Please direct correspondence to this case to:

Denise L. Mayfield  
Lathrop & Gage, L.C.  
4845 Pearl East Circle, Suite 300  
Boulder, CO 80301

November 14, 2002  
Date

Respectfully submitted,

  
Denise L. Mayfield, Reg. No. 33,732

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